IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6294 of 2004

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMITH SKANDHAN

Versus

SAURASHTRA UNIVERSITY

Appearance:

MR GM JOSHI for Petitioner No. 1-5

MR AR THACKER for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 1

RULE SERVED for Respondent No. 1-5

MRS MANISHA SHAH A.G.P. for Respondent No. 2-5

MRS VD NANAVATI for Respondent No. 6

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 29/12/2004

ORAL JUDGEMENT

1. This matter was placed before this Court on 24th

November, 2004, wherein the following order was passed :-

"Though rule was made returnable in June 2004, the State has not filed their reply. As a last chance, S.O. to 15th December, 2004. Reply to be filed on or before 10th December, 2004."

2. Inspite of the aforesaid order, the respondent, namely, the State Government has not filed affidavit-in-reply till this date. Moreover, when the matter was heard for interim relief on 31st May, 2004, the Court had observed as under :-

"9. Shri Abichandani learned A.G.P. has, however, submitted that in such a short time that was available to him, it was not possible for him to ascertain the said factual assertion made by the learned counsel of the petitioners. He, however, submits that even if the stand of the Government is consistent and as per the stand of the Government, no such residencies should be given, whereby the admissions would be regularized."

3. Ms. Shah learned A.G.P. has submitted that inspite of two communications, nobody has responded so far and, therefore some time may be granted. However, looking to the nature of the matter, this Court is not inclined to grant any more adjournments, since the matter pertains to admissions. It will be open for the office of the Government Pleader to take appropriate action against the officer for the inaction on the part of the erring officers to the higher authorities.

4. As noticed above, even after 5 months and 15 days the Government has no time to file reply in the matter. From the record it is clear that this Court had accommodated the State Government for 1 month and 14 days i.e. 44 days. Inspite of that, it seems that the Secretaries and other Officers of the State are busy with the other works and least preference is given to Court matters. Apparently the Court's orders are ignored as if it is a mere communication from one of the departments of the Government. It is noticed that in spite of the fact that this Court had time and again directed different Secretaries of the departments to file replies in matters at the earliest so that the matters can be disposed of as expeditiously as possible no steps are being taken in that direction. Delay on the part of the Department in handling the matters in a casual manner is one of the

major reasons for mounting arrears in courts.

5. I have heard the learned advocates for the respective parties and have perused the relevant record. In view of the averments made in para 11 of the petition, the petitioners have made out a case that there is a clear violation of Article 14 of the Constitution of India. Hence, only on that ground the petition is required to be allowed. Even otherwise, since no reply is filed by the respondents, namely the State Government, in spite of four adjournments after admission, it is to be presumed that the respondents are not able to controvert the averments made in the petition. Therefore this Court has no other option but to allow the petition especially in view of the fact that the petitioners shall not lose another academic year of their career and for every student one year is important which may not be within the knowledge of the authorities of the State.

6. However, Mr. Joshi learned advocate for the petitioners has submitted that the relief with regard to part II of the prayer (A) may not be available to the petitioner at this stage and accordingly the same is rejected in view of the fact that admissions were over at the relevant time. The prayer with regard to part I of prayer (A) is granted since no reply has been filed by the State Government and also in view of violation of Article 14 of the Constitution of India. The respondents are directed to give same treatment which is given to the students of Gujarat University and M.S. University, as stated in para 11 of the petition, which is not disputed by the respondents.

7. In the premises aforesaid, the petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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